28. Need for expunging certain portions of the Report of the Jenmi-Kudiyan Committee.

Mr. Trivikraman Vasudevan (Member, Jenmi, Padmanabhapuram Division) said that certain portions of the Report of the Jenmi-Kudiyan Committee were specially pointed out at the last session of the Assembly as being highly objectionable and prejudicial to the status and reputation of the Jenmis as a community and regretted that no action had been taken either to call the author of the Report to account or to expunge those portions. He repeated the same request and submitted that the objectionable portions had caused great pain and lowered the Jenmis in the eyes of the public in general. He, therefore, prayed that immediate action be taken to omit the portions and thus redress a great wrong done to the community.

Dewan's reply.—Noted.

29. The Report of the Jenmi-Kudiyan Committee and the draft Bill.

Mr. Narayanan Janardanan (Member, Jenmi, Trivandrum Division) said that he had nothing to add to what had been stated by the Padmanabhapuram Member.

Dewan's reply.—Noted.

30. Amendment of the Nair Regulation.

Mr. K. Parameswaran Pillai B. A. & B. L. (Member, Trivandrum Taluk) submitted that, though the Nair Regulation made sufficient provision for securing to the Nair *Tarawads* the *corpus* of the *Tarawad* properties, little or nothing had been done to secure to the members of a family reasonable use of the income of the family. The *Karanavan* was practically the master and sole owner of the *Tarawad* income and he need not keep an account of the same. He was not bound to maintain the *Tarawad* members except in the family house, unless any member was living outside with the consent of the *Karanavan* or for justifiable reasons. Even in the family, he was not bound to make an equal or adequate distribution of the family income. In fact, the chances of a junior member getting adequate benefit out of the *Tarawad* income depended, to a great extent, on the whims and caprices of the *Karanavan*. The junior members of even the most wealthy and respectable *Tarawads* were very often in the position of loafers or hangers-on, especially when the *Karanavan* was but remotely related to them. The problem to be solved was, how were the junior members to get a reasonable and adequate benefit out of the *Tarawad* income? If the liability to account was not imposed on *Karanavans*, the remedy must depend on the right of the junior members to demand partition. The question was, no doubt, beset with difficulties and there was much to be said on both sides.

Dewan.—I am glad that you realize the difficulties. As a matter of fact, it is one of the most difficult questions to decide and I fully agree in your view that there is much to be said on both sides.

The Member, continuing, said that, in his opinion, individual partition would be the best arrangement. But until partition was allowed, something ought to be done to minimise the disabilities of junior members in Nair *Tarawads* and he suggested that provision might be made to enable *thavazhees* to claim an allotment of a reasonable portion of the *Tarawad* properties for maintenance without the power of alienation, the allotment being subject to revision when the condition of the *Tarawad* was substantially altered.

Dewan.—Is there any High Court decision on the point in the T. L. R. ?

Member.—No, Sir, but the High Court is presided over by judges possessing very liberal views on the subject. In suits for maintenance, the slightest reasons are considered sufficient for granting maintenance.

Dewan.—I think that the Madras High Court has recently passed a decision according to which female members, and even male members living apart from the *Tarawad*, are entitled to maintenance.

LIBRARY ARCHIVES Kerala Legislative Assembly

The Member said that maintenance allotment would have most of the advantages of outright partition without its disadvantages, that the suggestion was made even at the time of considering the original Bill and that it was unreasonably rejected at the time of passing the Bill into law. He, therefore, proposed—

(1) that provision should be made in the Nair Regulation for allowing maintenance allotments to separate *thavazhees*; and

(2) that compulsory individual partition should be allowed in the case of *Tarawads* containing only male members and female members beyond child-bearing age.

Mr. N. Govinda Pillai (Member, Mavelikara Taluk) regretted that the recommendation of the Marumakkathayam Committee for *thavazhee* partition was rejected and that even the Bill recently sought to be introduced into the Council providing for a law of partition was thrown out without adequate and cogent reasons. Though the undivided family system was admirably suited when the Nair community was in its primitive stage of existence, conditions had considerably changed and popular opinion was now sufficiently strong in favour of partition on a legal basis. The common *Karanavan* had very little interest in the members of distant *thavazhees* and he oftentimes enriched his own *thavazhee* with the common income. The result was that the relationship between the *Karanavan* and the members of distant *thavazhees* became strained day by day, and summary suits in the Criminal Courts between the two parties were often the outcome of the ill-feeling. The members of the family had also no interest in improving the properties belonging to the family and the *Karanavan* could not be expected to bestow his attention on the improvement of all the properties. As a result, the properties deteriorated in value. The junior members could not also resort to trade or follow other industries, as they could not command the necessary capital. There was no individual status or individual credit. The position of the family both in dignity and in wealth would be materially enhanced by the partition of undivided families, for each branch family would then strive hard to improve its condition. In the Member's opinion, no *thavazhee* should demand partition when the common *Karanavan* was alive and partition should be allowed only on the application of the bulk of the members of a *thavazhee* who had attained majority. Though some were in favour of individual partition, the most equitable arrangement would be to divide one-half of the property per *thavazhee* and the remaining half per *capita* amongst all the members of the family. The Member prayed, therefore, that a law of partition might be allowed to the Nair community on the lines suggested by him.

Mr. K. Govinda Pillai (Member, T. I. C., Thiruvalla) described the social and economic condition of the Nair community in Travancore as being far from satisfactory, owing to the apathy and want of self-reliance and absence of any sense of responsibility in the members, chiefly brought about by the joint family system and the antiquated and peculiar law of inheritance which governed them. Whatever might have been the benefits of the system in its primitive stage, it had become altogether unsuitable to modern conditions and impeded the social, moral and material progress of the community. It was unfortunate that the Bill which was proposed to be introduced into the Council for providing a law of partition for the Nair community was rejected by the Government. Though there was no express sanction of the legislature to effect partition in Nair *Tarawads*, several families had divided during the past 30 or 40 years on account of sheer necessity; and past experience went to show that even *thavzahee* partition was not the best that could be thought of. The marriage bond amongst Nairs was also loose at present and it was essential that the matrimonial tie should be placed on a firm legal basis. A radical change in the line of succession was, therefore, very desirable.

To remedy the evils complained above, the Member prayed for the grant of a law allowing individual partition and *Makkathayam* in Nair *Tarawads*.

LIBRARY ARCHIVES Kerala Legislative Assembly

Dewan.—Do you really feel that the system of *Makkathayam* can, with advantage, be introduced in *Marumakkathayam* families? Is it proper for the Government to effect such radical changes in the method of inheritance?

Member.—If any community find that their law of inheritance and succession is defective and not suited to their present day requirements, it is very necessary that the Government should readily respond to their prayer for altering the law to their advantage. I submit that the legislature has complete power to alter the law of succession of any community.

Dewan.—Even if the legislature had the power, would it be desirable or expedient to exercise it, especially in a matter which involves radical changes in the long-standing method of succession in a community?

Member.—What I submit for the kind consideration of Government is that, unless some such arrangement as I suggested is made, the Nair community would become practically extinct in the course of the next thirty years.

The Member submitted that the baneful effects of the *Marumakkathayam* system were well known, that the junior members had no individual credit and had no impetus to work and that the *Karanavans* did not, in the majority of instances, realize their responsibilities. The Member failed to see why the *Makkathayam* system, which was the natural system and which was followed by most of the other sections of the population, should not, with advantage, be adopted by the Nair community also. Public opinion was also strong in favour of the reforms advocated by him.

The Member then presented a memorial signed by about 7,000 members of the Nair community in the several taluks of the State, praying for the grant of a law of individual partition.

Mr. M. N Narayana Menon (Member, Kottayam Taluk) dwelt at length on the many disadvantages under which the Nair community was labouring on account of the absence of a law of partition. He pointed out that the main contention of the members of the community at the time they asked for a Marumakkathayam Committee was that the law of partition should be given to them, that the cry for partition began more than 50 years ago, and that there was a strong consensus of public opinion favouring individual partition. He then quoted the opinions of many eminent statesmen and leaders of the community advocating the desirability of allowing individual partition in Nair *Tarawads*. He also regretted that the Bill recently introduced into the Legislative Council for allowing *thavazhee* partition in Nair *Tarawads* was rejected by Government in the face of the unanimous opinion of all the non-official members of the Council. Since 1072, there had been several cases of partition in Nair *Tarawads* in North Travancore and the result was that many families which would otherwise have gone to ruin had been saved. The fear entertained that the families would be ruined by allowing partition was, therefore, unfounded, as experience had shown that the result of partition was advantageous. The Member, in conclusion, prayed that the Government might be pleased to confer on the Nair community the boon of a law allowing individual partition with a view to mitigate the evils complained above.

Dewan's reply.—The representations made by the several Members and the memorial presented by Mr. K. Govinda Pillai will be carefully considered.

31. Amendments to the Village Panchayat Courts Regulation.

Mr. S. Ganapathi Pillai (Member, Trading Classes, Trivandrum) said that the Village Panchayat Courts were in existence for the last 1½ years and that the experience gained so far had revealed the necessity for amending certain sections of the Village Panchayat Courts Regulation, I of 1090.

(1) Sections 5 and 10 related to the establishment and pecuniary jurisdiction of Village Panchayat Courts. In the opinion of the Member, the pecuniary jurisdiction should be generally raised from Rs. 30 to Rs. 50. The Panchayat Courts

LIBRARY ARCHIVES Kerala Legislative Assembly